THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.16848 of 1997

Dated: 23.01.2007

Between:

Somaraju Venkata Chandra Kaladhara Rao
S/o late S.V.Kishan Rao, R/o Madhira,
Khammam District.

..... PETITIONER

AND

State of Andhra Pradesh, rep., by its Secretary,
Revenue Department, Secretariat, Hyderabad
and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.16848 of 1997

ORDER:

This writ petition is filed seeking a declaration that the action of the respondents in raising the height of bund of kothakunta tank situated at Chandrupatla village, Kalluru Mandal, Khammam District, without issuing notice to the petitioner and without following the procedure prescribed under the Land Acquisition Act, 1894 (for short "the Act") as arbitrary and illegal.

The case of the petitioner is that he is the absolute owner of the land in Sy.No.32 admeasuring Ac.4.26 guntas situated at Chandrupatla village, Kalluru Mandal, Khammam District, and there is a private tank, known as Kothakunta, adjacent to the said land, belonging to him. Now

the grievance of the petitioner is that the bund of the tank is at a height of 4 feet and now the respondent-authorities, without issuing any notice to him and without following the procedure prescribed under the Act, are trying to raise the height of the said bund from 4 feet to 10 feet, in which event, the entire land of the petitioner gets submerged.

Heard both sides.

While issuing rule nisi, this Court directed the respondents not to raise the height of the bund until further orders. Today, when the matter is taken up, learned counsel for the petitioner submitted that the respondent-authorities may be directed to follow the procedure prescribed under the Act, if they want to raise the height of the bund of the tank.

The learned Assistant Government Pleader for Land Acquisition also submitted that this writ petition can be disposed of directing the respondents to follow the procedure prescribed under the Act in the event of raising the height of the tank bund and if the land of the petitioner gets submerged in the said process.

In the light of the said submissions, this writ petition is allowed with a direction to the respondents to follow the procedure prescribed under the Act if they want to raise the bund of the tank from 4 feet to 10 feet and if the land of the petitioner gets submerged in the said process. There shall be no order as to costs.

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23.01.2007

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